

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Rev. Steven Lee Hewitt, Sr.,)	Civil Action No.: 0:12-2720-MGL
)	
Plaintiff,)	
)	
vs.)	ORDER AND OPINION
)	
Dr. Phillip Sinato; Ms. T. McCants; Ms.)	
Sherisse D. Birch, and Ms. L. Lee,)	
)	
Defendants.)	
_____)	

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Paige J. Gossett made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73 .02 for the District of South Carolina that pro se Plaintiff Rev. Steven Lee Hewitt, Sr's, ("Plaintiff") action against Defendant Ms. Sherisse D. Birch ("Defendant Birch") be dismissed without prejudice and without issuance and service of process. (ECF No. 12.) On November 6, 2012, Plaintiff filed a Reply to the Report and Recommendation stating that he has no objection to removing Defendant Birch from this case. (ECF No. 18.)

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See *Mathews v. Weber*, 423 U.S. 261, 270-71, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28

U.S.C. § 636(b)(1).

As set forth previously, Plaintiff did not object to the Magistrate Judge's Recommendation. Instead, Plaintiff agreed that the complaint should be dismissed as to Defendant Birch. Accordingly, after careful review of the record, the applicable law, and the Report and Recommendation in the case, the Court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference. It is therefore ORDERED that Plaintiff's complaint is DISMISSED without prejudice and without service of process as to Defendant Birch.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

November 8, 2012

Spartanburg, South Carolina